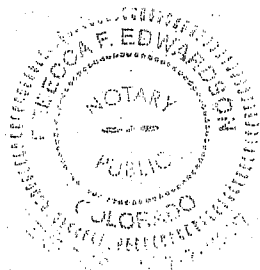


EXHIBIT: 12 14 pages

Sworn Statements of Kathleen McLain

CERTIFICATE OF COURT REPORTER

I, Rebecca Edwardson, a Notary Public in and for the State of Colorado, before whom the above-entitled cause was taken, do hereby certify that the proceedings were taken by me in shorthand and thereafter reduced to typewriting under my supervision; that said proceedings is a true record; that I am neither counsel for, related to, nor employed by any of the parties to the action in which the proceedings were taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.



Rebecca Edwardson
Rebecca Edwardson
Notary Public in and for
THE STATE OF COLORADO

My commission expires:
July 7, 2007

ORIGINAL

1 UNITED STATES OF AMERICA
2 DEPARTMENT OF VETERANS AFFAIRS
3 OFFICE OF RESOLUTION MANAGEMENT
4 BAY PINES, FLORIDA

5 -----
6 LARRY D. THOMAS, \

7 Complainant,
8 vs. Case No. 200I-0619-
9 2004102917

10 DEPARTMENT OF VETERANS AFFAIRS,
11 CENTRAL ALABAMA VETERANS
12 HEALTHCARE SYSTEM,
13 Respondent. /
14 -----

15 TELEPHONIC
16 SWORN STATEMENT OF KATHLEEN MCLAIN,
17
18 Wednesday - October 27, 2004
19 5:30 p.m. - 5:43 p.m.

20 APPEARANCES:
21
22 DEPARTMENT OF VETERANS AFFAIRS
OFFICE OF RESOLUTION MANAGEMENT
Ten Thousand Bay Pines Boulevard
Building 37 Room 112
Bay Pines, Florida 33708
BY: WINSTON JOHNSON
EEO SPECIALIST

1 P-R-O-C-E-E-D-I-N-G-S

2 INVESTIGATOR JOHNSON: Do you
3 solemnly swear or affirm that the information
4 you are about to give is true and complete to
5 the best of your knowledge and belief?

6 THE WITNESS: I do.

7 Whereupon,

8 KATHLEEN MCLAIN,
9 a witness, was called for examination and,
10 after having affirmed or sworn, was examined
11 and testified as follows:

12 EXAMINATION

13 BY INVESTIGATOR JOHNSON:

14 Q. For the record, my name is Winston
15 Johnson, EEO investigator, taking the
16 telephonic affidavit for the complaint of
17 Larry D. Thomas, against the Central Alabama
18 Veterans Healthcare System, West Campus, Case
19 No. 200I-0619-2004102917.

20 Would you state for the record your
21 name and spell it, please.

22 A. Kathleen McLain, M-C-L-A-I-N.

2

1 Q. Spell your first name, please.

2 A. K-A-T-H-L-E-E-N.

3 Q. You have the right to have a
4 representative present. Do you have a
5 representative?

6 A. No, I do not.

7 Q. Would you like to proceed without
8 one?

9 A. Yes, I would.

10 Q. Where are you employed?

11 A. At the Central Alabama Veterans
12 Healthcare System.

13 Q. And how long have you been employed
14 at this facility?

15 A. Since November of 1988.

16 Q. What is your title and grade?

17 A. I'm the administrative officer for
18 the Ambulatory Care Service line. I'm a
19 GS-12.

20 Q. This investigation will focus on the
21 claim accepted for investigation. I will
22 read the claim into the record before you

1 respond to it.

2 "Claim: Termination During
3 Probationary Period.

4 "Whether on the basis of race
5 (black) the Complainant was discriminated
6 against when on or about May 14, 2004 the
7 Chief of Information officer, William Greer,
8 informed him that at the end of the work day
9 his employment as the Assistant Imaging
10 Implementation Manager, GS-12, would be
11 terminated during his probationary period for
12 failure to successfully perform the duties of
13 the position."

14 Since this complaint is based on the
15 Complainant's race, please identify your
16 race.

17 A. I'm Caucasian.

18 Q. Do you know the Complainant?

19 A. Yes, I do.

20 Q. How do you know the Complainant?

21 A. Mr. Thomas worked in Clinical
22 Informatics and supported CPRS or clinic

1 medical record and he did training for the
2 physicians, nurse practitioners and nurses in
3 the service line.

4 Q. How would you describe your
5 communications with the Complainant?

6 A. They were always good.

7 Q. Did the Complainant conduct
8 implementation training for your clinical
9 staff?

10 A. Yes, he did. When he came we were
11 getting ready -- I believe it was VISTA
12 Imaging that was brought up by Mr. Thomas.
13 VISTA Imaging is an electronic system that
14 our X-rays and PST's and other diagnostic
15 tests can be looked up and the providers can
16 look at the X-ray, at the echocardiogram.
17 Mr. Thomas provided training for all of the
18 staff at the hospital. I interacted with him
19 in scheduling the training for the people in
20 Ambulatory Care.

21 Q. Did you actually participate in the
22 training?

5

1 A. No. Mr. Thomas trained me in my
2 office.

3 Q. How would you describe the training
4 that you received from Mr. Thomas?

5 A. It was successful.

6 Q. Did you get any feedback from the
7 staff in regard to Mr. Thomas' training?

8 A. Not specifically to the training.
9 But they were enthusiastic about the VISTA
10 Imaging and they were all able to access it
11 successfully.

12 Q. So would you rate the training a
13 success?

14 A. Absolutely a success.

15 Q. Have you ever had any e-mail
16 communications with the Complainant?

17 A. Oh, I'm sure I had quite a few,
18 especially when we were setting up training
19 for different individuals.

20 Q. How would you describe the quality
21 of the communication?

22 A. They were -- I'm sorry. I'm not

1 quite sure how to answer that. We
2 communicated often by e-mail and it was --
3 you know, we had successful communication.

4 Q. Okay. Describe the Complainant's
5 interpersonal communication with the clinical
6 staff. Were there any complaints?

7 A. No. No, there were no complaints.
8 He trained -- during his time here he worked
9 with the Clinical Informatic staff. Everyone
10 I brought in they had training by Mr. Thomas,
11 and it was successful training. There was
12 certainly no complaining.

13 Q. How would you characterize the
14 Complainant's customer service?

15 A. It was exceptional from my point of
16 view.

17 Q. Were you --

18 A. If you want me to expound on that.

19 Q. Yes, please.

20 A. My nurses and the physicians, the
21 nurse practitioners in Ambulatory Care have
22 clinics that run from 8 in the morning until

1 female. There were never any complaints.

2 Q. Were there any allegations of
3 inappropriate conduct?

4 A. Oh, no, none at all.

5 Q. Were you in a position to evaluate
6 the Complainant's performance as an
7 implementation manager?

8 A. Only insofar as it affected the
9 Ambulatory Care Service line. As far as the
10 service line was concerned, Mr. Thomas was
11 very good to work with. He provided good
12 training. He provided training that met our
13 schedule. There were never any complaints.
14 We had a successful training, you know,
15 because Mr. Thomas worked so well with us.

16 Q. Do you have any reason to believe
17 that the Complainant's termination during his
18 probationary period was influenced by his
19 race?

20 A. No, I have no reason to believe
21 that.

22 Q. Do you have any additional

1 information that you would like to add
2 regarding the claims, something that I may
3 have missed that would add clarity to the
4 Complainant's performance?

5 A. Well, in my opinion in dealing with
6 the Ambulatory Care Service line Mr. Thomas
7 went out of his way to accommodate our
8 training needs. We had a very -- you know,
9 it was very successful, the interaction and
10 getting training arranged and the training
11 itself. I never had anyone come back from
12 training and say I didn't understand this. I
13 still don't know how to do it. It was always
14 a successful conclusion.

15 As I mentioned earlier, I have
16 people who work on contract basis only on the
17 weekends, some of them work only at night.
18 Mr. Thomas went out of his way to get people
19 trained on the schedule that we were running.
20 He went down to the clinics and trained. He
21 went into the LSU and trained the doctors in
22 there, rather than having them have to come

1 out to a classroom. He was very good to work
2 with.

3 Q. Approximately how many people did he
4 train in Ambulatory Care?

5 A. Oh, my goodness. If you count the
6 nurses and the doctors together, it would be
7 over a hundred.

8 Q. Thank you.

9 I would like to ask you at this
10 time: Would you like a copy of your
11 transcript?

12 A. Yes, I would.

13 Q. These are the guidelines that you
14 must follow, Ms. McLain, the witness may not
15 make any mark on the transcript itself. All
16 corrections shall be made on an errata sheet
17 that is provided with the transcript. Any
18 changes to the original transcript will not
19 be included into the investigative file.

20 The signed transcript and correction
21 sheet are to be returned by mail to the
22 investigator within seven calendar days of

1 witness' receipt. If the signed transcript
2 and correction sheet are not returned to the
3 investigator within seven calendar days, it
4 will be deemed the witness has elected to
5 waive her right to review, correct and sign.

6 Witnesses will be encouraged to keep
7 a copy of the errata sheet and the
8 transcript. The witness may not make
9 substantive changes to their testimony.

10 Ms. McLain, I'm going to mail this
11 to you Fed Ex. Would you please provide an
12 address and a telephone number where you
13 would prefer to receive your transcript.

14 A. Yes. Please send it to Central
15 Alabama Veterans Healthcare System,
16 Attention: Ambulatory Care. The routing
17 symbol is 112. My name. The address is 215
18 Perry, P-E-R-R-Y, Hill, H-I-L-L, Road,
19 Montgomery, Alabama 36109. The phone number
20 is (334) 272-4670, extension 4690.

21 INVESTIGATOR JOHNSON: Ms. McLain,
22 this ends your sworn statement. I want to

1 thank you for your time and cooperation.

2 (Whereupon, the interview was
3 concluded at 5:43 p.m.)

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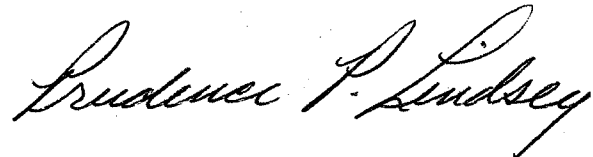
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22

1 CERTIFICATE OF NOTARY PUBLIC

2 STATE OF OHIO

3 I, Prudence P. Lindsey, a Notary Public in
4 and for the State of Ohio, before whom the
5 foregoing cause was taken, do hereby certify
6 that the witness whose testimony appears in the
7 foregoing transcript was taken by me at the
8 time mentioned in the caption hereof and
9 thereafter transcribed by me; that said
10 transcript is a record of the testimony given
11 by said witness to the best of my ability; that
12 I am neither counsel for, related to, nor
13 employed by any of the parties to the action;
14 and further, that I am not a relative or
15 employee of any counsel or attorney employed by
16 the parties hereto, nor financially or
17 otherwise interested in the outcome of this
18 action.

19 
20

21 NOTARY PUBLIC

22 My Commission Expires:
April 6, 2008

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11 CENTRAL ALABAMA VETERANS
12 HEALTHCARE SYSTEM,
13 Respondent. /
14 -----

15 ACKNOWLEDGMENT OF DEPONENT

16 I, Kathleen McLain, do hereby
17 acknowledge that I have read and examined
18 pages 2 through 13, inclusive, of the
19 transcript of my deposition taken on
20 Wednesday, October 27, 2004, and that:

21 (Check appropriate box)

22 [] the same is a true, correct, and
complete transcription of the answers
given by me to the questions therein
recorded.

[] except for the changes noted in the
attached Errata Sheet, the same is a
true, correct, and complete
transcription of the answers given by
me to the questions therein recorded.

Date

Signature

15